

Kentucky Water Well Drillers Certification Board Meeting

MINUTES

2-28-13

9:15 AM

FERN VALLEY HOTEL,
LOUISVILLE, KY

ATTENDEES	Danny Kelly, Orris Hayes, Bart Davidson, Todd Mills, David Jackson, Scotty Robertson, Kevin Moses
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Agenda:

- ❖ Roll Call
- ❖ Announcements
- ❖ Approval of Previous Meeting Minutes from November 9, 2012
- ❖ Old Business
- ❖ Status of Geothermal Well Drillers Legislation
- ❖ KYGWA Tradeshow Workshop Announcements
- ❖ Status of other issues
- ❖ New Business
- ❖ Regulation for construction standards for geothermal boreholes, if Geothermal Bill passes
- ❖ Schedule Location, Date, and Time of Next Meeting
- ❖ Adjournment

OPENING STATEMENT	Danny Kelly called the meeting to order at 09:15. He noted that they would need to be done before the KYGWA meeting at 10:00 am and if the board did not finish by 10:00 am they would need to reconvene later.
ROLL CALL	Present were Danny Kelly, Orris Hayes, Bart Davidson, Todd Mills, David Jackson, Scotty Robertson, Kevin Moses. Absent were Roy Toney and Jim Bates.
ANNOUNCEMENTS:	<p>Danny commended Scotty Robertson for the newsletter and meeting packet. He was pleased to note that the forms that are on line are now on one sheet of 8½ inch by 11 inch paper instead of 8½ inch by 14 inch paper. He admitted that he hated changing the paper tray on his printer to print out the larger sheets.</p> <p>Danny then asked for additional topics, and Scotty stated that Jim Bates has closed his drilling company and has taken a position with the county, and the board may have to replace him as a board member.</p>

Danny opined that members of the board should be actively drilling. David Jackson said that he had checked with the Board of Commissions to find out the proper procedures or even if Jim has to step down, but they have not responded. David added that it's his interpretation that the board member does need to be a certified driller.

Danny asked Kevin Moses if he had a well driller's license. Kevin affirmed that he did even though he is mainly involved in geothermal wells. Kevin added that he does occasionally drill water wells, roughly 10% of his work is water wells.

Kevin said that he would attend the meetings anyway, and offered to take the position if offered. Danny stated he wasn't sure if, as chairman, he would be overstepping his bounds by asking Kevin to do so, and he then nominated Kevin to the board.

David said he thought that the position has to be filled by somebody from the same part of the state as Jim Bates. Kevin said that he lives so close to Jim Bates, he could almost hit him with a rock.

Danny said that Orris Hayes does not do many water wells anymore. Orris admitted that he did not get many calls for them these days, he does mostly foundation drilling. David asked Orris if he is a certified driller and Orris said yes.

Danny said that Todd Mills is a certified monitoring well driller. David said that he thought the regulation says certified water well driller and that Kevin met that requirement.

Todd opined that the board needs diversity, and now that Scotty and David are going to be charged with regulating geothermal wells he said it would be good to have someone with that background on the board. Kevin said he gets quite a bit of environmental work too, like Mark Sweet does.

David said he did not think there would be a problem submitting Kevin's name especially if the board is in agreement and they affirmed that they were. Danny said it would be an asset to the board to have Kevin on it.

David added that as soon as the DOW hears back on how to deal with Jim Bates change of employment, he would submit Kevin's name as his replacement. He noted that final approval comes from the Governor.

<p>APPROVAL OF THE LAST MEETINGS MINUTES</p>	<p>Danny Kelly asked if everybody had read the minutes. Bart Davidson said that they look excellent to him as usual. Kevin Moses said that they were very much in depth. Danny asked for a motion to accept the minutes of November 9th. Bart made a Motion that they accept the minutes. David Jackson seconded the motion. The motion passed unanimously.</p>
<p>OLD BUSINESS</p>	<p>Danny asked if there was any old business the Board needed to review. Not hearing any, he asked if everybody had seen the changes made to the geothermal bill. Everyone present acknowledged that they had. He then turned the meeting over to Orris for an update on the bill.</p> <p>Orris read what he had from Senator Ray Jones. He read the bill: House Bill 306, Rep. Greg Stumbo and Rep. Leslie Combs sponsors, <i>An Act to Amend Kentucky regulatory statutes to define geothermal drilling and allow for certification</i> (Attachment 1).</p> <p>Orris described how on February 21st they were called to be at the House of Representatives committee meeting, so he and Danny went there at 10:00 am, and 20 minutes later the bill was the first item brought up on the floor. Orris then gave a copy of the agenda to Scotty to file with minutes (Attachment 2).</p> <p>Orris stated that he then got a call Thursday, February the 26th at 3:00 that it had passed the House with no opposition. This was after there had been some initial opposition from the HVAC people who had called Leslie Combs and asked to change some wording. The first thing they wanted to leave out was “deeper than it is wide.” Then they wanted to leave out “excavation” because they felt that it may interfere with laying horizontal lines. A revised wording change was sent to everyone for comment. Orris read changes into record of Section 1(5). They are in the Attachment 1. Orris said the changes did not hurt the drillers either way and that the Board agreed to allow changes.</p> <p>Orris noted that on Thursday the 26th when it passed he was informed by Steve Collins of LRC that the bill was going to Senator Jones and that he need to contact him. He tried to call Senator Jones but was not able to reach him, however the legislative aides assured him that they would give the bill to Senator Jones and if there were any questions Senator Jones would call Orris. He said that the legislative aides told him that they expected the bill would be submitted to the Senate as early as yesterday, or later this week or possibly the next, and that the bill was expected to pass the Senate given the way it passed the House. Orris noted that they may get a call at any time to go meet the Senate Committee at Frankfort.</p>

David said the Cabinet took a neutral position with the bill, and that the Cabinet added some additional information on how much it would cost and how much it would generate. He thought both numbers were \$100,000.00. The Cabinet also added an explanation describing why the bill was needed.

Todd then asked if it was a revenue neutral bill, and David clarified that yes it was expected to cost as much as it would generate in revenue. Todd opined that that this was probably important due to current budget restraints.

Orris noted that he had talked with Janine Coy-Geeslin of the LRC and that she had some questions about the actual bill and regulations, so he referred her to Scotty and David.

David noted that when the original regulations were put into place they were based on an EPA guidance document and the LRC was looking for the original guidance document. But he explained that now that the regulation is promulgated the LRC needed to understand that the guidance was no longer pertinent and the existing regulation contains all of the necessary construction requirements.

Orris said that he also told them that the real intent was not to create any more paper but to regulate how geothermal boreholes are drilled for the purpose of protecting the groundwater. He stated that in order to do this they would need guidelines in the regulations that lay out the costs of program and make it pay for itself. Orris then read the statute changes concerning fees into the minutes (Attachment 1, Section 3).

Orris said they sent the LRC the summary paperwork indicating the costs from all fifty states to run their drilling programs and the costs from the states surrounding Kentucky of regulating geothermal wells. Orris noted that most other states have permit requirements and charge fees for these permits, but Kentucky does not. Orris said he also told the LRC that the Board will establish the fees that need to be charged.

Danny noted that Rep. Combs named this bill the Orris bill, and that the bill past unanimously in the House. He stated that they presented the bill as a common sense thing not as a political issue, and that it's there to protect the environment. Danny and Orris both opined that it's a good bill and will pass the Senate unanimously.

Danny then noted that he is also in the Home Builders Association and according to their news updates he thought that this bill was to bring geothermal drillers into licensing. He noted that there are six hundred bills going into the legislature this year and described a few of the other bills as examples.

Orris read into the record the parts of the bills' language left out for the new bill that had previously referred to the guidance document (Attachment 1, Section 2), and he read from the new bill about the Board developing construction standards (Attachment 1, Section 2).

Orris said the Drillers Board will have a big hand in developing the construction standards. He noted that Rep. Stumbo supports this bill and will help any way he can.

David noted that the Cabinet was not in opposition to the bill this time.

Danny then expounded on the regulations of other industries that are a lot more restrictive than those of the drilling industry.

Orris noted that the fees they are proposing are not intended to gouge anyone they are just to administer the program. He then discussed the costs of similar programs in other states.

Danny said our next step is to wait for the Senate and see what happens. He asked if anybody had any questions and, with no response, he concluded that Orris will let us know if/when the legislature needs the Board's assistance.

Danny stated that the next item on the agenda is the Kentucky Groundwater Association workshop announcements. He asked if anybody else had anything to add about the trade show and noted that the auction was that night. Also on the schedule were David's presentation at 5pm, Scotty's and Bart Davidson's at 10am and the Driller's Board presentation at 2pm. David and Scotty gave presentations on well construction and completion of well records. Bart Davidson gave a talk on the KGS website and the board held a talk about the geothermal bill submitted to the legislature.

Danny inquired if there was any other old business anyone wanted to talk about and there was not.

NEW BUSINESS

Danny said he emailed Scotty earlier this week about several new drillers. One that did not have a license but who is working off of someone else's license, and that is Chris Tucker in Murray KY. Danny said that Chris does irrigation wells, has a small rig, and Danny doesn't know how he was doing them. Danny was recently at an irrigation show and it appeared to him that the workers, not Chris, knew nothing about the trade show, and he got the impression that Chris did not know about it either, and that Chris was not interested. So he asked them how they keep up with the continuing education hours, and they did not seem to know about that either. Then he asked them about variances, and nobody seemed to be applying for any variances.

Danny said that with the type of drilling he does on irrigation wells using his drilling method, he has to apply for a variance on every well and he didn't know if other drillers are aware that they need to complete a variance here in Kentucky. Scotty noted that they would be provided, that information at the trade show.

Danny continued that when applying for a license in Illinois, one needs a pump installer's installation report form for the license. He noted that in Tennessee he had a license but never filled out any forms. And he asked others this morning if they had ever completed a form and he found out there is no form to complete. So, he does not know if these drillers are aware that they need to complete a variance form in Kentucky.

Kevin asked if this Board and the state DOW want to know where every hole is drilled, and the Board said yes.

Kevin then opined that people that don't get a driller's license aren't likely to fill out a well report. He asked why they can't go back to the way it was and let people work under one driller's license. He stated that it is hard to find anyone that can pass the exams to get their license and that if they do you can't keep them. So, he asked, why not let it go back to having rig operators? He suggested making the operators come to the meetings and get their training too. He said that lack of training seems to be the problem. He stated that he could name some people that are doing it (allowing well installation by unsupervised rig operators).

Kevin further stated that he gets irritated when he sees a well that does not have a well tag on it because he believes that the driller is probably not reporting the work properly or that they don't know what to do because these operators are not trained or told. He noted that they need qualified helpers, but he doesn't

know where he will be able to get them. He said that he has been looking for certified drillers for two years. He opined that this place would not be big enough to hold all the people that would be in the program if rig operators were trained to drill wells properly.

A knock on the door interrupted the meeting. Danny adjourned the meeting until after lunch, and said to return at 12:30.

Danny Kelly called the meeting back to order at 12:43.

Kevin Moses continued where he left off by stating that he'd like to see the state issue a rig operator card and then everyone get a drilling card and five hours of training. He opined that the biggest problem they had before was that companies would have only one licensed driller and multiple rig operators and rigs were being run by people that were not properly trained, and had no supervision in the field. He further stated that if the rig operators had to be trained, by coming to the drillers' workshop, it would work better.

A brief discussion followed of how the program used to allow rig operators to get certified, but no longer allows it and why the board had rig operator certification removed from the statute. It was agreed that the rig operators did not have to attend the trade show under the old rules.

David asked Kevin if he was recommending that we go back to rig operators, with the only difference being that now they would have to go to training.

Kevin said yes, but he was not saying this because he has two drillers that are not yet certified. He said it is because he has to be onsite all the time when they are drilling, and it curtails his ability to conduct business. He can't find certified drillers to work, and if he hires untrained people he has to stay on site with them to train them. He opined that everyone else with more than one rig has the same problem.

David pointed out that it comes back to who is going to be responsible on the site. He asked what the ramifications are if the rig operator is working on a well and the registered driller is four sites away and the operator messes something up.

Todd Mills said that ultimately it would come back to the driller because the rig operator is working under his tutelage.

Orris opined that he thought that the original intent was that everyone had to be listed and had to have a rig operator's card. But he further said that Peter Goodman had noted that a driller could have forty employees and one certified driller can't watch forty people and see it's done correctly. So they had discussed changing the regulation to go from a rig operator to an apprentice. They believed that an apprenticeship would be a chance for someone to get an education from the driller. He said that they discussed having it set up so that after one year the apprentice could go and get his license. He noted that the only problem with that is when they went to get license, they had to come up with bond and insurance.

Kevin pointed out that a bond is not that hard to get; it's as simple as \$100.00 bill, but Orris opined that it would be expensive for a company to obtain bonds for forty drillers.

A discussion ensued over how either a rig operator or apprentice driller program could avoid having the same issues and abuse of the system that occurred before. Orris asked if the regulations currently allowed for an apprentice program. Kevin said it did not and David offered to look into the possibility.

It was generally agreed that a way was needed for an apprentice or operator to become a driller, and there was discussion on how many rigs one driller could have running at one time and still maintain sufficient oversight. Danny suggested three, Kevin supported five.

David stated that they needed to provide training that is simple but presented well enough that people can understand the concepts and can then pass the exams. He opined that the current program is failing somewhere if it is not providing the tools that experienced driller employees need to become certified drillers. He stated he could see an apprenticeship working, but education and training is also needed. He suggested workshops throughout the year or more than once a year. They could charge a small fee and have good instructors come in and provide the training that will help them pass the exams. David offered to identify some other states with apprenticeship programs and see how they are doing it, so at the next Board meeting it can be discussed.

Danny supported David's idea and stated that everyone was in agreement about looking into other states' driller apprentice programs. Kevin suggested Peter Goodman and Joe Moffitt could explain how the apprentice program had worked before. Orris

noted that blasters and aviators have similar programs that include practical experience and training.

Orris suggested it did not need to have a motion on it now, and Danny agreed and asked for new business.

David stated that recently there has been a couple of big outfits in western Kentucky, buying up a lot of farm land and clearing it. David said that it appears that they have been approaching certified drillers and asking them to drill holes that they can direct surface water streams into. He further said that he does not know why they are doing this but it appears they are trying to store water. In addition, he does not know what kind of industry they are in and or if they can be regulated, by the Driller's Board, because they may be considered agricultural entities. He said that several certified drillers were approached by this outfit and they were concerned so they called the DOW.

David further noted that the Board needs to be aware of this situation. He pointed out, as described, that these would probably be considered injection wells and they would have to have an EPA Class V permit, and a driller could easily get into trouble if they did not know what was going on. In addition, he noted that putting surface water into the ground could potentially violate requirements of the Clean Water Act.

A discussion followed and Danny stated that he had been contacted, by someone, who wanted, an irrigation-well in the Hopkinsville area, and he opined that maybe they thought they could store water in the caverns, although if they tried it would just drain right out.

David noted that the company name he had heard was Seven Springs, and he told the Board to just be aware and if anyone hears anything to let the DOW know.

Danny asked what the penalty for drilling in Kentucky without a license is. David replied that the maximum penalty was \$2500, but more than likely the DOW would just make them get their license.

Danny asked what to do if they find someone in violation of drilling regulations. David said to call DOW, and the field office would then be notified and could get someone out there right away. In addition, he suggested getting some evidence if you can, photos, company name and address, etc. and then DOW can send them a letter requiring them to get a license.

Danny then asked for more new business, and Bart Davidson asked Scotty if he would tell the board about his conversation with Glen Beck, of the KGS Henderson office. Bart noted that Glen was inquiring about farmers that want livestock wells, whether it has to be drilled by a certified driller or not. Bart believed that the farmers thought they didn't have to have a certified driller.

Scotty responded that Glen was going to give a class on Monday and had called him to clear up the issue. Scotty noted that it says in the driller's regulation that you do not have to have a certified driller in order to drill a livestock well. However, he noted that the Kentucky Department of Agricultural has a Best Management Plan for farms called a BMP 4 and it states that all agricultural wells, must be drilled, by a certified water well driller, per the DOW regulations. He said it does not matter what the well is drilled for, it has to be drilled by a certified driller and there has to be a log submitted for it.

David noted that it was part of the Ag water quality plan that's for farms over ten acres. Scotty added that if it's less than ten acres it may be considered a residential area. When asked by Bart if you had nine acres and one cow could you drill your own well, David explained that anything less than 10 acres falls under the DOW regulations and DOW regulates you. He stated that if it's greater than ten acres then it is the Dept. of Agriculture that regulates you. He noted that, as Scotty said, the Ag Water Quality BMP is a counterpart to the development of Groundwater Protection Plans.

A short discussion over the regulation ensued and Orris then read portions of the Section 3 of the draft regulation into the record: This is in Attachment 1.

Bart Davidson opined that the regulation had just contradicted itself, and David agreed but added that the agriculture water quality plan states that the farmers have to use the well construction standards. Todd added that the Agriculture's BMP takes precedence over this program when a farm is greater than ten acres.

A brief discussion followed off record.

Danny asked if there was anything else. No one had anything.

<p>NEXT BOARD MEETING</p>	<p>Danny suggested it was time to schedule the next meeting. He noted that Roy was not there and suggested Lake Cumberland State Park. Danny noted that, while they were there, the KGWA could consider it for next year's workshop.</p> <p>Todd made a motion that the next Board meeting be at Lake Cumberland State Park.</p> <p>Orris seconded the motion and the motion passed unanimously. The board discussed an available date and Todd made a motion that the next board meeting be held on June 21st. Orris seconded the motion and the motion passed unanimously.</p>
<p>ADJOURNMENT</p>	<p>Danny asked to hear a motion to adjourn. Todd made a motion to adjourn. Orris seconded the motion and the motion passed unanimously.</p> <p>Meeting adjourned at 16:10.</p>